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Pro Se

**UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA**  
**NORTHERN DIVISION**

DREW J RIBAR,

Plaintiff,

vs.

STATE OF NEVADA EX REL., NEVADA  
DEPARTMENT OF CORRECTIONS,  
CARSON CITY AND ASSOCIATED  
DEFENDANTS

Defendants,

**Case No.: 3:24-cv-00103-ART-CLB**

**PLAINTIFF'S MOTION FOR LEAVE TO  
FILE A SUR-REPLY TO DEFENDANTS'  
MOTION FOR SUMMARY JUDGMENT**

**I. INTRODUCTION**

Plaintiff, Drew J. Ribar, respectfully moves this Court for leave to file a sur-reply to address inaccuracies in the sworn statement of Deputy Jason Bueno regarding the conditions and duration Plaintiff was detained in Deputy Bueno's patrol vehicle on August 30, 2022. Specifically, Deputy Bueno stated under penalty of perjury that the rear window adjacent to Plaintiff's seat was open for the "majority of the time" before transport to the Carson City Jail. Evidence shows this statement to be factually inaccurate, as Plaintiff was confined in the vehicle with the windows rolled up and air conditioning vents obstructed for the majority of the detainment period, thus impacting Plaintiff's safety in 95-degree heat.

**II. RELEVANT BACKGROUND**

In their Motion for Summary Judgment, Defendants rely heavily on Deputy Bueno's declaration to argue that conditions within the patrol vehicle did not constitute excessive  
PLAINTIFF'S MOTION FOR LEAVE TO FILE A SUR-REPLY TO DEFENDANTS' MOTION FOR  
SUMMARY JUDGMENT - 1

1 force or a Fourth Amendment violation. In his declaration, Deputy Bueno claims that the rear  
2 window nearest Plaintiff “was open for the majority of the time” before transport. This  
3 statement, offered to depict adequate ventilation, is contradicted by available evidence indicating  
4 that the window was only open for 4 minutes and 53 seconds out of a total of 14 minutes and 19  
5 seconds, leaving it closed for 9 minutes and 26 seconds. Moreover, Plaintiff experienced  
6 significant distress, discomfort, and difficulty breathing due to lack of ventilation and restricted  
7 airflow on an exceptionally hot day.  
8

### 9 **III. GROUNDS FOR LEAVE TO FILE A SUR-REPLY**

10 The Court may grant leave for a sur-reply when new evidence, inaccuracies, or  
11 misrepresentations arise in the record that were not addressed in the original motion or  
12 opposition. Here, the Plaintiff seeks to correct a factual misrepresentation that is material to the  
13 Court’s decision on summary judgment:  
14

- 15 **1. Contradiction in Bueno’s Declaration:** Deputy Bueno’s statement that the window was  
16 open for the majority of the time is factually incorrect. Evidence, including video footage  
17 and time-stamped records, shows the window was open for only 4 minutes and 53  
18 seconds—significantly less than half of the total time Plaintiff was in the vehicle.  
19
- 20 **2. Plaintiff’s Personal Safety in Extreme Heat:** Plaintiff’s detainment occurred on a 95-  
21 degree day, with the vehicle's ventilation restricted, creating unsafe conditions. This  
22 information challenges Defendants’ argument that Plaintiff’s conditions of confinement  
23 did not rise to a constitutional violation.  
24
- 25 **3. Necessity for Accurate and Complete Record:** Deputy Bueno’s misrepresentation  
26 regarding the window position affects the reliability of Defendants' narrative and  
27 prejudices Plaintiff’s case by minimizing the severity of conditions he experienced.  
28

1 Granting leave to file a sur-reply will allow Plaintiff to address this crucial factual  
2 discrepancy and ensure a complete and accurate record before the Court.

3 **IV. CONCLUSION**

4 For the reasons set forth above, Plaintiff respectfully requests that the Court grant  
5 leave to file a sur-reply to address the inaccuracies in Deputy Bueno's declaration, ensuring that  
6 the factual record accurately reflects the conditions of Plaintiff's detainment.  
7

8 Respectfully submitted,

9 Drew J. Ribar

10 Pro Se  
11

12  
13 Dated this 31st of October, 2024.  
14

15  
16 /S/ Drew J. Ribar

17  
18 Drew J. Ribar Pro Se  
19 3480 Pershing Ln.  
20 Washoe Valley NV 89704  
21 775-223-7899  
22 Const2Audit@gmail.com

23 **CERTIFICATE OF SERVICE**

24 I, Drew J. Ribar, hereby certify that on this 31st day of October 2024, I served a  
25 true and correct copy of the foregoing **Opposition to Defendants' Motion for Summary**  
26 **Judgment** by the method indicated below and addressed to the following:

27 **Via [ECF/Electronic Filing and email]:**

28 PLAINTIFF'S MOTION FOR LEAVE TO FILE A SUR-REPLY TO DEFENDANTS' MOTION FOR  
SUMMARY JUDGMENT - 3

Douglas R Rands attorney for the State of Nevada via email at  
[drands@ag.nv.gov](mailto:drands@ag.nv.gov)

Katherine F Parks attorney for Carson City via email at [kfp@thorndal.com](mailto:kfp@thorndal.com)

I declare under penalty of perjury under the laws of the State of Nevada and the  
United States of America that the foregoing is true and correct.

**DATED:** October 31, 2024.

/s/ Drew J. Ribar

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**Drew J. Ribar**

Plaintiff, Pro Se

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